

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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MARIE CHANTALE JOSEPH,

Plaintiff,

-against-

08 Civ. 3644 (SCR)

NORTHWOOD GROUP, LLC;  
CENTURY 21 WOLFF & SON BUSINESS  
BROKERS INC;  
FREMONT INVESTMENT AND LOAN;  
WILNER LUCTAMAR;  
SG AMERICAS SECURITIES;  
GMAC MORTGAGE;  
XYZ CORPORATION, (Said name being fictitious,  
it being the intention of Plaintiff to designate any  
corporation having a legal interest in Plaintiff's  
mortgage);  
Does 1-10, (Said names being fictitious,  
it being the intention of Plaintiff to designate any  
individual or corporation responsible in some  
manner for the injuries sustained by Plaintiff);

Defendants.

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**ANSWER WITH AFFIRMATIVE DEFENSES**

Defendant, GMAC Mortgage, LLC ("Defendant") erroneously identified as GMAC Mortgage, as and for its Answer to the Complaint of Plaintiff, Marie Chantale Joseph, responds as follows:

**I. INTRODUCTION**

1. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "1" of the Complaint dated April 16, 2008 (the "Complaint") and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

## **II. JURISDICTION & VENUE**

2. Defendant admits the allegations contained in paragraph numbered “2” of the Complaint.

3. Defendant admits the allegations contained in paragraph numbered “3” of the Complaint.

4. Defendant admits the allegations contained in paragraph numbered “4” of the Complaint.

## **III. PREDATORY LENDING**

5. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “5” of the Complaint and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

6. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “6” of the Complaint and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

7. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “7” of the Complaint and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

8. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “8” of the Complaint and states that the

allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

9. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “9” of the Complaint and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

10. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “10” of the Complaint and states that the allegations of such paragraph contain unilateral summaries and characterizations of law and fact by Plaintiff which require no response.

#### **IV. PARTIES**

11. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “11” of the Complaint.

12. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “12” of the Complaint.

13. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “13” of the Complaint.

14. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “14” of the Complaint.

15. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “15” of the Complaint.

16. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “16” of the Complaint.

17. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “17” of the Complaint.

18. Defendant denies the allegations contained in the first sentence of paragraph numbered “18” of the Complaint but admits that it is a Delaware limited liability company, is registered as a New York foreign limited liability company and that it does business with residents of the State of New York. Defendant denies the allegations contained in the second sentence of paragraph numbered “18” of the Complaint but admits that Defendant holds and/or services residential mortgages in the ordinary course of its business. Defendant denies the allegations contained in the third sentence of paragraph numbered “18” of the Complaint. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in the fourth sentence of paragraph numbered “18” of the Complaint and states the allegation contained therein is a conclusion of law which a court of competent jurisdiction will determine. Defendant admits the allegations contained in the fifth sentence of paragraph numbered “18” of the Complaint.

19. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “19” of the Complaint.

20. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “20” of the Complaint.

21. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “21” of the Complaint.

22. Defendant denies the allegations contained in paragraph numbered “22” of the Complaint to the extent that same are intended to apply to the Defendant, and denies knowledge

and information sufficient to form a belief as to the truth of such allegations insofar as they pertain to the other defendants in this action.

**V. FACTUAL ALLEGATIONS**

23. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “23” of the Complaint.

24. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “24” of the Complaint.

25. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “25” of the Complaint.

26. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “26” of the Complaint.

27. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “27” of the Complaint.

28. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “28” of the Complaint.

29. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “29” of the Complaint.

30. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “30” of the Complaint.

31. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “31” of the Complaint.

32. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “32” of the Complaint.

33. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “33” of the Complaint.

34. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “34” of the Complaint.

35. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “35” of the Complaint.

36. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “36” of the Complaint and all subparagraphs thereof.

37. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “37” of the Complaint and all subparagraphs thereof.

38. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “38” of the Complaint.

39. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “39” of the Complaint.

40. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “40” of the Complaint.

41. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “41” of the Complaint.

42. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “42” of the Complaint.

43. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “43” of the Complaint.

44. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “44” of the Complaint.

45. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “45” of the Complaint.

46. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “46” of the Complaint.

47. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “47” of the Complaint.

48. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “48” of the Complaint.

49. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “49” of the Complaint and refers to the document described in such paragraph as to the content thereof.

50. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “50” of the Complaint and refers to the document described in such paragraph as to the content thereof.

51. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “51” of the Complaint and refers to the document described in such paragraph as to the content thereof.

52. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “52” of the Complaint.

53. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “53” of the Complaint.

54. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “54” of the Complaint.

55. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “55” of the Complaint.

56. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “56” of the Complaint.

57. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “57” of the Complaint.

58. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “58” of the Complaint.

59. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “59” of the Complaint.

60. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “60” of the Complaint.

61. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “61” of the Complaint.

62. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “62” of the Complaint.

63. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “63” of the Complaint.



64. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “64” of the Complaint.

65. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “65” of the Complaint.

66. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “66” of the Complaint.

67. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “67” of the Complaint and denies all such allegations to the extent that same may be construed to impute any of the conduct alleged therein to Defendant as a purported assignee of the mortgage loan referred to therein.

## **VI. INJURIES**

68. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “68” of the Complaint.

69. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “69” of the Complaint.

70. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph numbered “70” of the Complaint, and refers to the document described in such paragraph as to the content thereof, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in the second sentence of paragraph numbered “70” of the Complaint.

## **VII. CLAIMS**

### **FIRST CLAIM**

**Violation of the Fair Housing Act, 42 U.S.C. §§ 3604, 3605,  
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

71. As and for its answer to paragraph numbered “71” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “70” of the Complaint with the same force and effect as if more fully set forth herein.

72. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “72” of the Complaint.

73. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “73” of the Complaint.

74. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “74” of the Complaint.

### **SECOND CLAIM**

**Violation of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 *et seq.*,  
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

75. As and for its answer to paragraph numbered “75” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “74” of the Complaint with the same force and effect as if more fully set forth herein.

76. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “76” of the Complaint.

77. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “77” of the Complaint.

78. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “78” of the Complaint.

79. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “79” of the Complaint.

80. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “80” of the Complaint.

**THIRD CLAIM**

**Deprivation of Civil Right In Violation of 42 U.S.C. §§ 1981, 1982 and 1985,  
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

81. As and for its answer to paragraph numbered “81” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “80” of the Complaint with the same force and effect as if more fully set forth herein.

82. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “82” of the Complaint.

83. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “83” of the Complaint.

84. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “84” of the Complaint.

85. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “85” of the Complaint.

86. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “86” of the Complaint.

87. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “87” of the Complaint.

88. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “88” of the Complaint.

**FOURTH CLAIM**

**Violation of the Deceptive Practices Act, New York State General Business Law § 349,  
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

89. As and for its answer to paragraph numbered “89” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “88” of the Complaint with the same force and effect as if more fully set forth herein.

90. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “90” of the Complaint.

91. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “91” of the Complaint and all subparagraphs thereof.

92. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “92” of the Complaint.

93. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “93” of the Complaint.

**FIFTH CLAIM**

**Fraud**

**(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

94. As and for its answer to paragraph numbered “94” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “93” of the Complaint with the same force and effect as if more fully set forth herein.

95. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “95” of the Complaint.

96. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “96” of the Complaint.

97. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “97” of the Complaint.

98. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “98” of the Complaint.

99. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “99” of the Complaint.

**SEVENTH [sic] CLAIM**  
**Breach of Fiduciary Duty**  
**(Against Wilner Luctamar)**

100. As and for its answer to paragraph numbered “100” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “99” of the Complaint with the same force and effect as if more fully set forth herein.

101. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “101” of the Complaint.

102. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “102” of the Complaint.

103. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “103” of the Complaint.

104. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “104” of the Complaint.

**EIGHTH CLAIM**  
**Violation of Human Rights Law, New York Executive Law §§ 290, *et seq.*,**  
**(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

105. As and for its answer to paragraph numbered “105” of the Complaint, Defendant repeats and realleges each and every response to paragraphs numbered “1” through “104” of the Complaint with the same force and effect as if more fully set forth herein.

106. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “106” of the Complaint.

107. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “107” of the Complaint.

108. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “108” of the Complaint.

109. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “109” of the Complaint.

### **VIII. RELIEF**

Defendant denies all prayers for relief to the extent that any of same seeks damages of any kind or nature from Defendant or to the extent such prayers for relief seek to rescind or reform any mortgage of which Defendant may be determined to be the beneficial holder.

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim or cause of action as against Defendant, GMAC Mortgage, LLC, upon which relief may be granted.

#### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

Defendant has never held a beneficial interest in either of the mortgages described in the Complaint and accordingly, the Complaint fails to state a claim or cause of action upon which relief may be granted.

#### **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, Defendant either has not connection to the mortgages which are the subject of the Complaint or has acted merely as a servicer of one or more of the

mortgages described in the Complaint and accordingly, the Complaint fails to state a claim or cause of action upon which relief may be granted.

WHEREFORE, Defendant prays for judgment against Plaintiff as follows:

a) Dismissing the Complaint in its entirety with prejudice, together with an award of costs and expenses related to defending this action;

b) Awarding such other, further and different relief as the Court may deem just and proper.

Dated: New York, New York  
June 2, 2008

PLATZER, SWERGOLD, KARLIN,  
LEVINE, GOLDBERG & JASLOW, LLP  
Attorneys for Defendant  
*GMAC Mortgage, LLC*

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